

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO. 11-110
v.	*	SECTION: I
MILTON EDILBERTO ESCOTO-GALINDO	*	
a/k/a Milton Escoto-Galindo		
a/k/a Milton Escoto	*	
	* * *	

FACTUAL BASIS

Should this matter have gone to trial, the government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the indictment now pending against the defendant:

The Defendant, **MILTON EDILBERTO ESCOTO-GALINDO** (hereinafter “**ESCOTO**”) has agreed to plead guilty as charged to the two-count indictment charging him with smuggling goods from the United States, in violation of Title 18, United States Code, Section 554, and illegal reentry of a removed alien in violation of Title 8, United States Code, Section 1326(a).

A Customs and Border Protection (hereinafter “CBP”) officer would testify that on or about March 24, 2011, he received information from Servicios Hondurenos, an exporter located in Kenner, about a shipment from New Orleans destined for Honduras. Servicios Hondurenos advised that a

weapon had been discovered at their warehouse, located in the Eastern District of Louisiana, on March 23, 2011, within a television deemed for export from the United States.

CBP officers arrived at Servicios Hondureños and observed a large Sony projection screen television. Upon inspection of the television, a large item covered in installation foam was found inside its components. The item was wrapped in clear tape, garbage bags, tin foil and duct tape. Once this hidden item was opened, a Marlin Model 336, lever-action rifle, .30-30 caliber, bearing serial number 22002952, with scope was found. The shipping receipt for the television revealed that the shipper was listed as Rosa Maria Padilla of Lacombe, Louisiana. The consignee was listed as Maria Eugenia Pacheco in Olancho, Honduras. The commodity for export was listed as a 56-inch "TV" valued at \$1000.00. There was a written warning in the Spanish language at the bottom of the shipping receipt stating that Servicios Hondureños would not accept firearms. The date listed on the shipping receipt was March 16, 2011.

An employee of Servicios Hondureños would testify he picked up the television containing the firearm from a residence at 1015 Wilkinson Street in Mandeville, Louisiana on March 16, 2011. The Servicios Hondureños employee would positively identify the shipper of the box as the defendant, **ESCOTO**.

On April 19, 2011, Immigration and Customs Enforcement (hereinafter "ICE") agents located the defendant, **ESCOTO**, at his residence at 1015 Wilkinson Street in Mandeville, Louisiana. ICE agents determined that **ESCOTO** was a citizen of Honduras and illegally present in the United States, and he was then administratively arrested and processed for immigration violations.

ESCOTO was given his *Miranda* rights in Spanish by ICE agents, and he waived those rights and agreed to give a voluntary statement. **ESCOTO** stated that he was a citizen of Honduras,

was illegally in the United States, and had previously been removed.

ICE agents showed **ESCOTO** a photograph of the Marlin Model 336, lever-action rifle, .30-30 caliber, bearing serial number 22002952 found by Servicios Hondureños within the television destined for Honduras on March 23, 2011, and **ESCOTO** identified it as the same firearm he concealed and attempted to ship on March 16, 2011. **ESCOTO** admitted to attempting to ship the firearm from the United States to Honduras, knowing it was illegal for him to possess and export that firearm. **ESCOTO** said that he wrapped the firearm in foil to prevent it from being detected during export, and he then secured and concealed the firearm within the television. ICE agents showed **ESCOTO** a copy of the shipping receipt with the description of the cargo and a signature in the name Rosa Maria Padilla. **ESCOTO** acknowledged that he signed the shipping invoice in a false name to hide the fact that he wanted to ship a firearm to Honduras. **ESCOTO** said he did not apply for any licenses to ship the firearm. **ESCOTO** further stated that he found the firearm in his trailer while doing some remodeling.

An agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives would testify that the Marlin Model 336, lever-action rifle, .30-30 caliber, bearing serial number 22002952 found in the investigation would be classified as a firearm pursuant to Federal law.

An official with the U.S. Department of State (hereinafter “DOS”) would testify that the Marlin Model 336, lever-action rifle, .30-30 caliber is included in the definition of “firearm” on the United States Munitions List at Category I(a) and (j)(1) of Title 22, Code of Federal Regulations, Section 121.1. The firearm is designated as a defense article by regulation at Title 22, Code of Federal Regulations, Section 121.1(a), pursuant to the Arms Export Control Act codified at Title 22, United States Code, Section 2778(a)(1). The DOS official would testify that it is contrary to the laws

and regulations of the United States, specifically Title 22, United States Code, Section 2778(b)(2) and (c), and Title 22, Code of Federal Regulations, Section 127.1(a)(1), for a person to export or attempt to export a defense article without a DOS-issued license or written approval of DOS pursuant to Title 22, Code of Federal Regulations, Section 123.1(a). The DOS official would testify that the defendant, **ESCOTO**, did not have a DOS-issued license or written approval by DOS to export the Marlin Model 336, lever-action rifle, .30-30 caliber, bearing serial number 22002952. The DOS official would further testify that **ESCOTO** was not exempted from the licensing requirement under Title 22, Code of Federal Regulations, Section 123.17(d) because **ESCOTO** did not bring the firearm into the United States in compliance with Title 27, Code of Federal Regulations, Section 478.115(d).

Documentation from the records of ICE, contained in the defendant's Alien file, including a Warrant of Removal/Deportation, complete with the defendant's fingerprints, photographs and signature, would demonstrate that the defendant, **ESCOTO**, was removed from the United States to Honduras on or about December 6, 2007, at or near Alexandria, Louisiana. A qualified ICE Fingerprint Specialist would testify that the fingerprints of the individual documented in the Alien file containing the Warrant of Removal/Deportation and the fingerprints of the defendant are the same. Documentation from the Alien file would further show that the defendant is an alien, and not a citizen or national of the United States.

Testimony of an official from United States Citizenship and Immigration Services regarding record checks conducted through the Computer Linked Application Information Management System would show that the defendant, **ESCOTO**, did not receive consent from the United States Attorney General or his designated successor, the Secretary of the Department of Homeland Security,

to apply for readmission or receive permission to reenter the United States since the time of the defendant's previous removal.

ROBERT WEIR
Special Assistant United States Attorney

Date

MILTON EDILBERTO ESCOTO-GALINDO
Defendant

Date

SAMUEL SCILLITANI
Attorney for Defendant

Date